



## HEBER CREEPER

P.O. BOX 69, HEBER CITY, UTAH 84032

PHONE: (801) 654-2621

February 21, 1977

Mr. Jim Berry  
606 Pheasant Way  
Bountiful, Utah

Dear Jim,

The Board of Directors of the Heber Creeper, Inc. met on Thursday, February 17, 1977 and discussed, in depth, the presentation you made to us on February 11, 1977, attempting to justify the overages in the Advertising and Promotion budget that has participated heavily in placing the company in a serious, almost fatal, financial condition. The Board's unanimous opinion was that there is little or no reasonableness to an overage of this magnitude and that, therefore, we should expect you to participate in the losses this budget overrun has cost the company. To ignore a cost overrun of this size would be an improper dereliction of fiscal duty, both to our stockholders and ourselves. We are enclosing an analysis of each item incorporated in your presentation in which we comment as to whether or not we can agree with your position. We wish to remind you that the expense incurred included payments to you for \$2,424.22, including \$350.00 that our analysis indicated was probably a double payment (see Item 4-D of analysis). Under the circumstances, the Board feels there was little justification for a retainer.

The Advertising-Promotion expenses totaled \$39,906.00 including billings presented by Mountainwest Magazine (\$610.00) and an estimate of Anne Porters expense claim (estimated \$1,000.00). When comparing this budget overage with other excessive expenses the company had to absorb during this past year, including wages, fuel costs, investments, etc., there were none that even approached the excess over allowable amounts as did the Advertising-Promotion budget.

However, accepting your contention that there should be a contingency factor of approximately 10% of budget, and that there were a few of the billings that you possibly could not have been aware of, or were unauthorized, the Board of Directors express a willingness to accept as settlement a payment from you of \$9,500.00 (Nine Thousand Five Hundred dollars), provided the following conditions are also agreed to:

1. That all accounts which have not been acknowledged by you or the company to date, such as Mountainwest, Anne Porter, and Big Sky. Be paid and settled by Jim Berry personally with no further liability to Heber Creeper.

2. That you see that the generator purchased from Wheeler Machinery be fixed under purchase warranty within the next 30 days.
3. That you see that the air compressor purchased from Wheeler Machinery be fixed under warranty within the next 30 days.
4. That the bill from ICM that has consistantly been refused by Heber Creeper as not valid be cancelled or paid by Jim Berry.
5. That the Company receives the \$9,500.00 within 10 days of receipt of this letter.

We have not paid a few large bills listed on the payment register sent you some time ago, particularly including the last billing from Dave Burton Agency for \$4,669.51. We do not intend to pay any bills still unpaid which would involve you in any collection efforts unless you agree to the conditions as we have stated. We feel we must inform those entities, including Mr. Buron of this fact as soon as possible, and awaite your response.

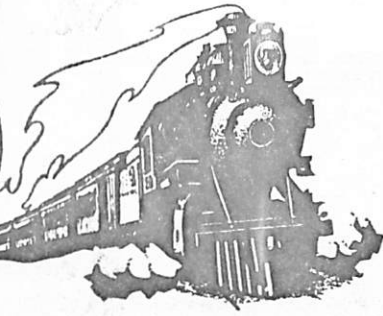
Jim, please accept this in the spirit in which it has been written. We all know you basically want us to succeed. However, the company did place alot of trust in you, and basically, we do need to know that you are willing to sacrifice your money just as the rest of us have done to preserve the company and the concept of steam railroading in Utah.

Very truly yours,

HEBER CREEPER, INC.

Lowe Ashton  
President

cc: Board of Directors



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Board of Director's analysis of Jim Berry's presentation in justification of cost overrun of Advertising-Promotion Budget:

1. Salaries: \$6,524.28 portion of cost overrun. As the Board understood Jim's explanation justifying this amount, we interpret it as being measured against the new business generated by the sales efforts. We therefore first attempted to determine if in fact we did generate excess business that would allow an adjustment in the sale, advertising and promotion budget by applying commissionable sales percentages to increase the budget. However we decided this was an incorrect approach, because wages were a portion of the original budget presentation, and should be considered just as any other media dollar in the budget. We therefore, can see no rational in Jim's approach that would allow any justification for budget cost overruns due to wages paid.

An examination of the sales productivity did indicate an increase in discount business of approximately \$4,400.00 over last year, a 14.6% increase. However, a sampling of the effectiveness of regular yearly repeating promotions indicated they had enjoyed an increase of over 50%. There is no question in our mind that Jim was authorized to hire sales personnel. In fact this concept was addressed in the presentation to the Board. We cannot accept any justification of budget overrun from wage standpoint at all.

2. Money spent by Lowe and Anne: \$809.90 :

A. Park City Chamber of Commerce Dues, authorized by Lowe in January, Jim is correct. \$50.00

B. City Guide, a combination promotion by Stardust Cafe by Jim Ritchie and Heber Creeper by Lowe, determined to be a good effort in early spring prior to Jim Berry's presentation. He would not be aware of this. Jim is correct \$280.00

C. Heber Valley Gazette to the Wasatch Wave, \$200.00. This concept was developed by Monte Bona, Wave, and Lowe, after conference with Jim who endorsed it. Jim did not initiate this, but was aware of it. \$200.00

D. Wasatch Wave, Anne Porter for resident passes and an ad promoting resident passes. This was an annual expenditure, in which Jim Berry helped develop years ago.	\$ 48.05
E. Wave Publishing, Anne Porter, resident pass ad again same as above.	\$ 80.00
F. Wave Publishing, Anne Porter, \$16.03, business cards and add her title etc., was created by Jim.	\$ 16.03
G. Royal Inn, Rodeway, Stardust, Howard Johnson: A discount program giving the motel some compensation for customers who stayed with them that they were able to convince to come and ride the train. This might have been 100% Anne, although she may have received Jim's OK, because it was fairly well established that she had no authority to initiate and direct expenses, nor would Management unless Jim concurred. However, amount is too small to disagree over.	\$ 27.54
H. Wave Publishing, Business cards, these were for Jim and Anne.	\$ 17.28
I. Circle R, \$50.00. A map of Wasatch County, just being prepared, will be distributed next year, Lowe authorized, Jim would not know about it.	\$ 50.00
TOTAL	\$768.90

3. Items Jim claims he was not aware of, \$325.00:

- A. Barclay and Crockett, \$65.00, could be unauthorized expenditure.
- B. Big Sky Fun Map, \$210.00: We have the invoice, showing Attention: Jim Berry. Could be an ad that is not authorized.
- C. KRG0, \$50.00. Jim is correct, was a mis-coding, and should have been charged to Hub Cafe, rather than Heber Creeper.

4. Money spent by Mrs. Porter, \$1,381.28. This money all went to Lorraine Press and covered the following invoices:

- A. Sales Letters \$38.10. This letter was written by Anne, and went to churches etc., a source of potential business, assumed to have been thought of by Jim and discussed in advance with the Board. Jim would have to be aware of the letter.
- B. 10,000 Group-Charter Checklists, \$96.80. This item was developed by Jim and rough-designed by Jim, although the final draft of it could have been Anne's. Jim would have to know of it also.

C. 25,000 timetables, \$802.60. This particular item is a reprint every year, updated and adjusted by the sales manager. Almost always the local Wave office does this, However, this past year, Jim and Anne assumed the responsibility and decided not to make a special trip up to Heber and Lorraine was doing other printing anyway.

D. 25,000 Family Discount papers, \$396.90. This was strictly a Berry concept. In fact, the distribution was done by Bron Marketing Enterprises, Inc. who charged us \$350.00 on a separate invoice that Jim OK'd. An examination of this charge after Jim questioned acknowledging the Lorraine Press account indicated to Cindy that in fact we had double paid this bill, by check #3190 directly to Bron Marketing Enterprises, August 4, paying a past due bill, then we found another check to Jim Berry Advertising for \$600.00 on May 21, a portion of which was to to to pay the same invoice.

5. Expenditures not acknowledged and no checks written:

A. Mountain West Magazine, \$610.00. Jim claims no responsibility. In communicating this information to the editor, he was extremely upset, and said they could document the fact that Jim in fact did give them the copy to use.

B. Anne Porter's Expenses, \$1,000.00, approximately. The Board feels Jim must agree to the amount actually due, and assume the responsibility for payment personally as part of the total settlement.